

Day 1 & 2 - Principles of the Constitution

Entrance task: Pick up a Constitutional Principles packet from the stand before you sit down.

Today: Principles of the Constitution

Homework: CW packet p. 5

Principles of the US Constitution

1. Popular sovereignty

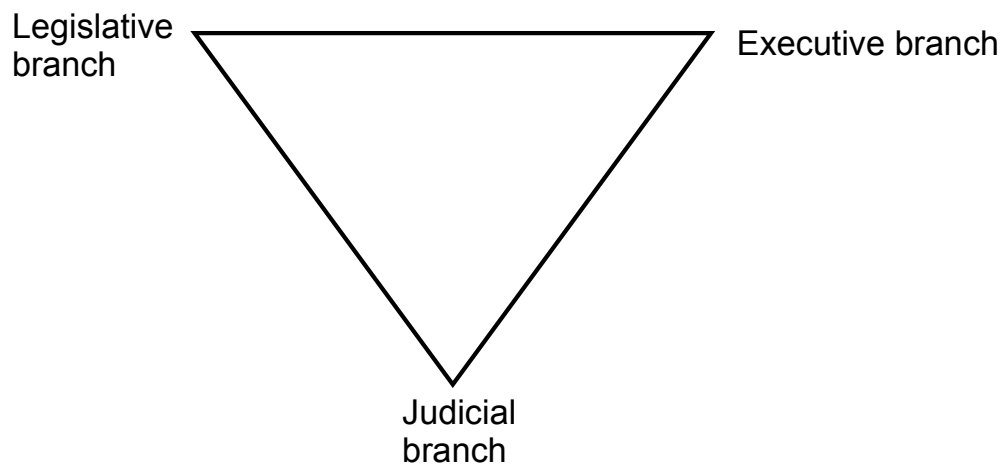
CW p. 2

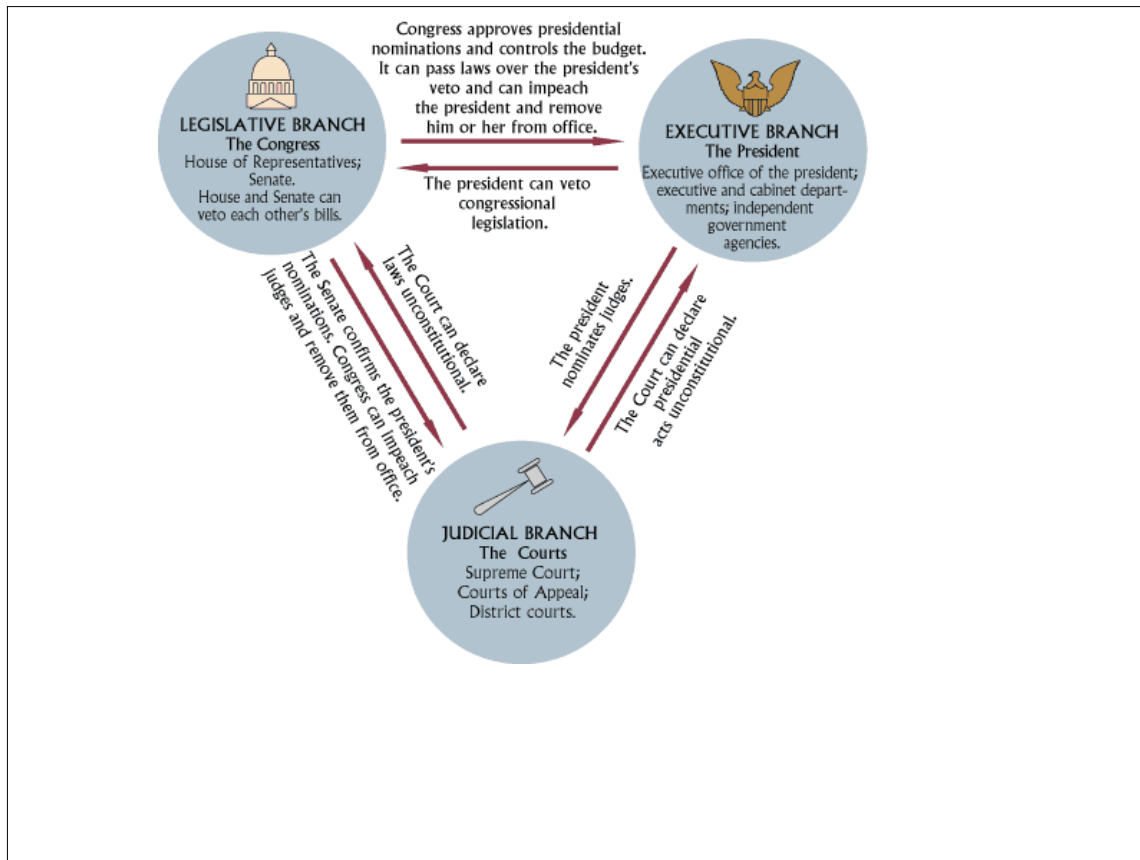
- a. Stated in the Preamble "We the People . . . do ordain and establish this Constitution"
- b. Power comes from the People
- c. "Social Contract"

Principles of the US Constitution

2. Separation of Powers

- a. Three branches – Montesquieu
- b. Restricted power of a central government so it separated
- c. Diagram this idea:



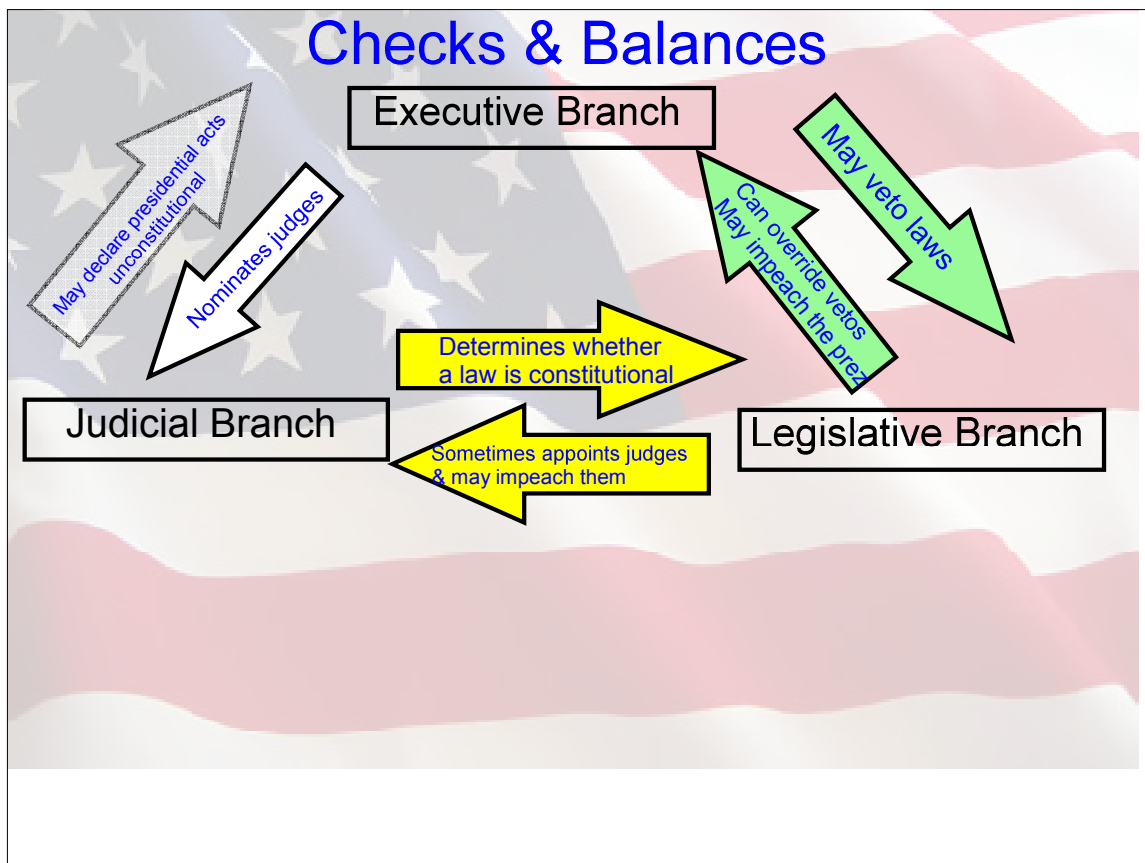


Principles of the US Constitution

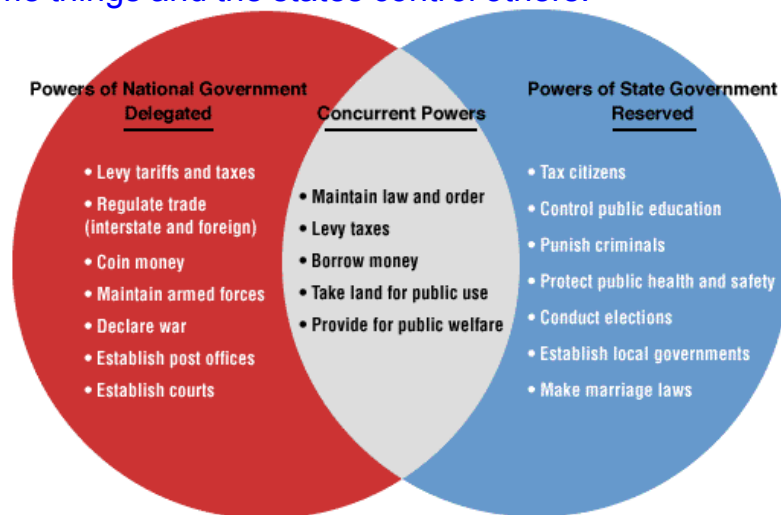
3. Checks and Balances

Each branch had "power" to restrict another

- *The President can veto laws but Congress can override the veto with a 2/3 vote.
- * The President and Congress may agree on a law but the Supreme Court can declare a law unconstitutional.
- * The President can appoint Judges and other government officials but Senate must approve them.
- * Supreme Court judges have life terms but they can be impeached .



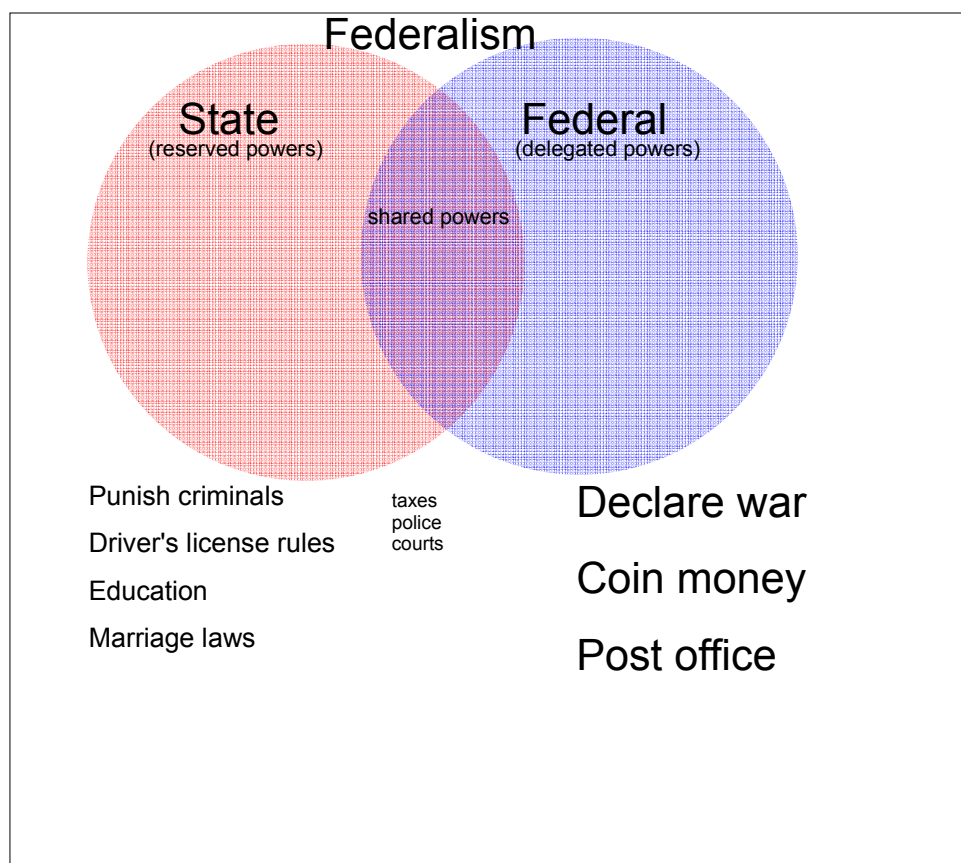
4. **FEDERALISM** - division of power where federal government controls some things and the states control others.



Delegated powers: Powers given to the federal government
- declare war, coin money, post office, etc.

Reserved powers: Powers kept by the states
- regulate schools, Punish criminals, etc.

Concurrent Powers: Shared between the fed. and state
- taxes, courts (fed and state), maintain order



Implied powers: powers that were not specifically written in the Constitution but were assumed. Article I, Section 8, Clause 18 - "*necessary and proper*" clause, also known as the *elastic clause*

Examples: US Postal Service, regulate telecommunications, build federal highways

Principles of the US Constitution

5. Supremacy of National Law

- In case of conflicting laws/actions between state and federal levels, the federal govt. and Constitution are supreme.

i.e. Arizona immigration laws
Colorado marijuana laws

1. WA - Attorney General will not challenge state marijuana laws 2:22
2. High Court refuses to challenge CA marijuana law 2:30

Principles of the US Constitution

6. Limitations of the Power of Government

- a. Reserved powers
- b. Checks and balances
- c. **Bill of Rights**
- d. Elections



Amendment III *Quartering of Troops*

No soldier shall, in time of peace, be quartered (assigned to live) in any house without the consent of the owner; nor in time of war; but in a manner to be prescribed by law.

Amendment IV *Searches and Seizures*

The right of the people to be secure (safe) in their persons, houses, papers, and effects (belongings) against unreasonable searches and seizures shall not be violated; and no (search) warrants shall issue but upon probable cause (means a *reasonable ground of suspicion*) supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.



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Amendment V ***Rights of the Accused; Property Rights***

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury (refers to *serious offenses punishable by death or by imprisonment*. Before someone may be tried for such a crime, a grand jury must decide that sufficient evidence exists to bring that person to trial), except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; (a person may not be tried twice for the same offense – double jeopardy) nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law (means proper legal procedure); nor shall private property be taken for public use without just compensation (the government has the power of eminent domain, or the right to take private property for public use. This provision requires the government to pay the owner a fair price for such property).



Amendment VI ***Other Rights of the Accused***

In all criminal prosecutions (trials), the accused shall enjoy the right to a speedy and public trial by an impartial (fair) jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor (*the accused person has the right to request the court to issue an order or subpoena, compelling a witness to appear in court*) and to have the assistance of counsel for his defense.



Amendment VII ***Civil Suits***

In suits at common law (common law based on custom and precedent (past decisions made in similar cases; It was brought to the English colonies by the early settlers and became the foundation of the American legal system) where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

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Amendment VIII *Bails, Fines, and Punishments*

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. ★

Amendment IX *Rights Not Listed*

The enumeration (listing) in the Constitution of certain rights shall not be construed (interpreted) to deny or disparage (weaken) others retained by the people.

Amendment X *Powers Reserved to the States and People*

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Principles of the US Constitution

7. Orderly Change

a. Elections

b. Amendment process allows for orderly change

c. Succession outlined in Article II, Section 1, Clause 6 and Amendment 25

1. Vice-President 2. Speaker of the House,

3. President pro tempore of the Senate,

4. Secretary of State, 5. Secretary of the Treasury,

6. Secretary of Defense,

7. Attorney General, 8. Secretary of the Interior, 9. Secretary of Agriculture,

10. Secretary of Commerce, 11. Secretary of Labor, 12. Secretary of Health & Human

Services, 13. Secretary of Housing & Urban Development, 14. Secretary of Transportation,

15. Secretary of Energy, 16. Secretary of Education, 17. Secretary of Veterans' Affairs,

18. Secretary of Homeland Security

Principles of the US Constitution

8. Flexibility

- a. Wording intentionally undefined
- b. *Elastic Clause* - Congress may make any law which is "necessary and proper"
- c. General welfare clause
- d. Amendment process
- e. Interpretation may be strict (literal) or loose (what is the intent?)

Examples: Alexander Hamilton - National Bank
Thomas Jefferson - Louisiana Purchase

Principles of the US Constitution

9. Undemocratic features

- a. At first, only HofR was popularly elected
- b. No Bill of Rights
- c. Vice President was chosen by the electoral college

Still in practice today:

- a. Electoral college determines who becomes president
- b. Judges at federal level are appointed, not elected.



Matrix for Understanding the Bill of Rights

1. Turn to page 13 in the classwork packet
2. Examine the photographs that are passed around the class,
3. Discuss each photograph with your buddies and determine the **RIGHT** that is represented and the **AMENDMENT** that protects that right.

Principles of the Constitution

Homework: None

Matrix for Understanding the Bill of Rights

A.



4th Amendment
Protection against
unreasonable search
and seizure



http://www.abanet.org/publiced/constitutionday/images/search_starter3.gif

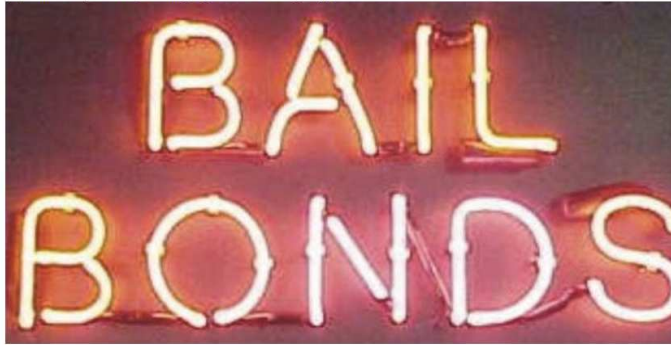
B.

<http://www.grandviewschools.org/Word/images/chair.jpg>



This is an example of an electric chair where some death row inmates are executed.

http://aballaway.com/images/neon_bail_bonds.139214608_std.jpg



8th Amendment -
protection against
excessive bail and cruel
and unusual punishment

C.



7th Amendment - Right to jury trial in civil cases



<http://filipsagnoli.files.wordpress.com/2009/06/hate-speech-is-not-free-speech.jpg>

D.



http://b5media_b4.s3.amazonaws.com/28/files/2008/03/santa.jpg

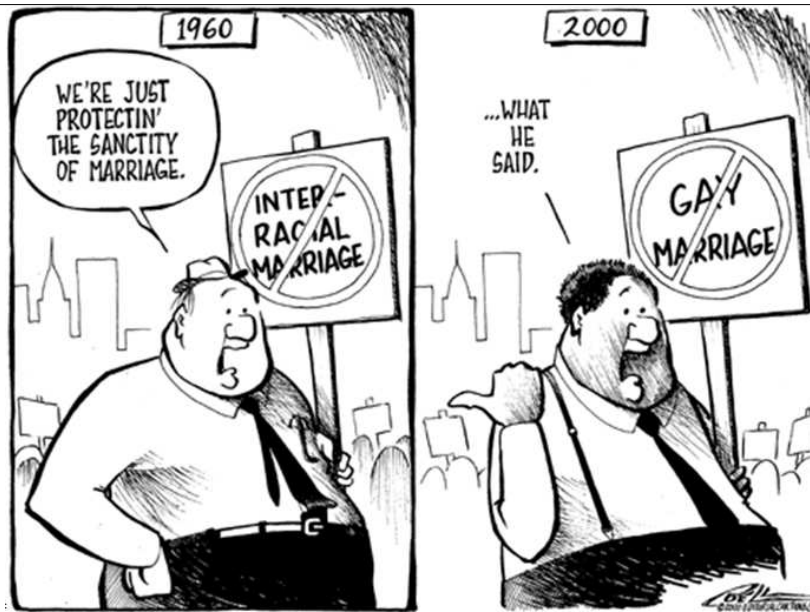
1st Amendment - Freedom of speech



E.

5th Amendment - Rights of the accused (no double jeopardy), and eminent domain

F

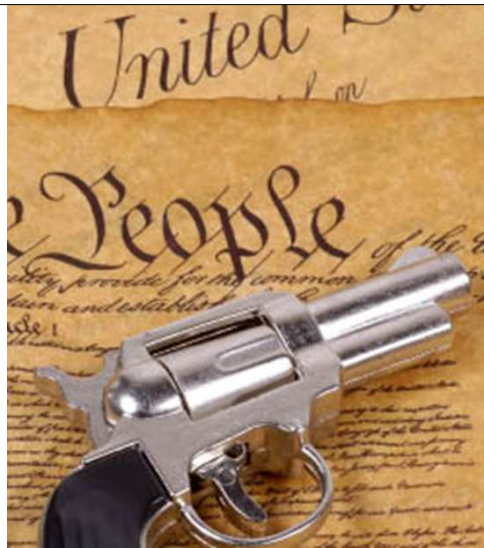


9th Amendment - Unenumerated rights
Rights not mentioned in the Bill of Rights

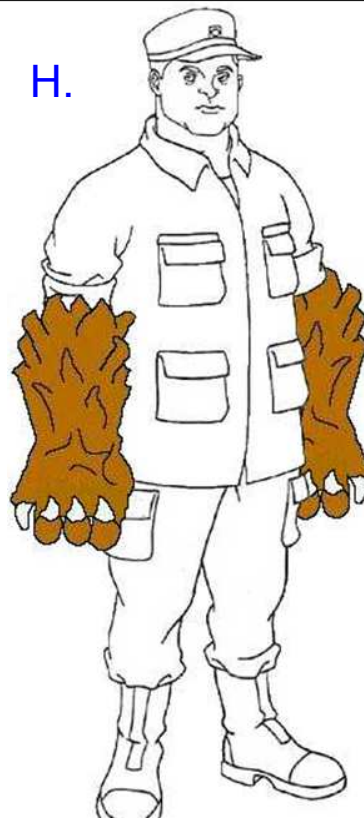
G.



3rd Amendment - Military base
No quartering troops



H.



2nd Amendment -
Right to bear arms

I.



10th Amendment - Powers reserved to states (education, i.e.)

J.



6th Amendment - Right to confront witnesses

Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	

1. The people are the source of all power.
2. The President is responsible for executing, enforcing, and administering the law.
3. Congress must have a 2/3 vote in each house to override a veto.
4. This practice was established in Marbury v Madison in 1803.
5. "Congress shall make no law . . ."
6. Education requirements vary from state to state.

page 5 in packet

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Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	
<p>7. Only Congress has the power to declare war.</p> <p>8. Presidential appointees are subject to Senate approval.</p> <p>9. "We the People of the United States . . ."</p> <p>10. The rule of law.</p> <p>11. In Pennsylvania, citizens pay both a state and federal income tax.</p> <p>12. Government may exercise only those powers delegated to it.</p>	

Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	
<p>13. Federal courts may declare illegal any government action violating the Constitution.</p> <p>14. Government can govern only with the consent of the governed.</p> <p>15. All treaties made by the President must be ratified by the Senate.</p> <p>16. The Supreme Court has voided more than 900 state laws as unconstitutional.</p> <p>17. Powers not specifically given to the federal government by the Constitution are retained by the states.</p>	

Constitutional Principles

Entrance Task: Think: Are there any aspects of the US government that are not expressed in the US Constitution?

Today: The Unwritten Constitution

Homework: Read page 7 in packet

9. Undemocratic Features

Page 4

a. Originally:

1. Only House of Representatives were popularly elected, Senators were chosen by state legislatures
2. No Bill of Rights
3. Vice-President chosen by the electoral college

b. Still in practice today:

1. Electoral College is the final determinant of who becomes president
2. Judges at the federal level are not elected; the President nominates and the Senate approves them. State judges are elected or appointed and district attorneys are elected

Parts of the US Constitution

Page 6

A. Preamble: We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

B. The Constitution also contains the following Articles:

1. Article I: Legislative Branch
2. Article II: Executive Branch
3. Article III: Judicial Branch
4. Article IV: Relations Among the States
5. Article V: Provisions for Amendment
6. Article VI: National debts, Supremacy of National Law, Oath
7. Article VII: Ratification of the Constitution

C. Bill of Rights

- a. Federalists: Believed that the Constitution should be ratified without the Bill of Rights
 - i. Famous Federalists include James Madison & John Adams
- b. Anti-Federalists: Believed that the Constitution should only be ratified with the inclusion of the Bill of Rights
 - i. Famous Anti-Federalists include Thomas Jefferson & Benjamin Franklin

D. The other 17 Amendments deal with specific issues and situations particular to the time period and events that occurred in the United States.

- a. Amendments 13, 14, 15 – Civil War Amendments
- b. Amendments 16, 17, 18, 19 – Progressive Era Amendments
- c. Amendments 20, 22, 23, 24, 25, 26 – Election Amendments

** the 21st Amendment repealed the 18th Amendment (prohibition)*

True or False

1. The Constitution created political parties.
2. The Constitution limited the term of the president to two terms.
3. The various department the US government were created in the Constitution.

The Unwritten Constitution



Refers to the ideas and processes that are accepted as a needed part of American government, regardless of the fact that they are not actually in the Constitution. These ideas and processes came about through the custom and precedent. Many aspects of the unwritten Constitution are so ingrained into our system that many do not even realize that they are not laws or provisions of the Constitution.

The **Cabinet** The Constitution gave the President power to **appoint** people to assist him. Washington and later Presidents came to rely on these people – known as the Cabinet – for advice. ★

Political Parties. The Constitution does not specifically mention political parties, although these now play an important role in our system of government. The 2-major parties today are:
Democrats & Republicans ★

THE UNWRITTEN CONSTITUTION

Judicial Review The Supreme Court has the power to review **federal** and **state** laws to determine if they are permissible under the U.S. Constitution. In other words, they determine whether a law is **constitutional** or **unconstitutional**. ★

Congressional Committees These help Congress select the most important bills out of thousands proposed. Committees hold hearings, discuss and evaluate each bill. ★

The Electoral College Promise Originally the Electoral College voted on its own. From 1842 onward, electors vote by state according to the majority of the popular vote. This is not in the constitution, but is a promise and historical precedent. ★

Term Limits for President Originally this was not in Constitution, but the first US president George Washington set the precedent. The 22nd amendment in 1951 set the two-term limit, so it became part of the US Constitution. ★

Page 9 Comparing National and New York State Branches			
LEVEL OF GOVT.	EXECUTIVE	LEGISLATIVE	JUDICIAL
National gov. capital is located in: Washington, DC	President	US Senate and House of Reps	Federal Court Supreme Court
State gov. capital is located in: Albany	Governor	State Senate and State Assembly	State Court

Positions in National Government:

President: Barack Obama

Vice President: Joe Biden

US Senators from New York: Charles Schumer and

Kirsten Gillibrand

US Representatives: Richard Hanna (22nd district) and

★ Tom Reed (23rd)

Two most-recently added Supreme Court judges:

Sonia Sotomayer (2009) and Elena Kegan (2010)

There are NINE Supreme Court Justices



The Roberts Court, Back row (left to right): Sonia Sotomayor, Stephen G. Breyer, Samuel A. Alito, and Elena Kagan. Front row (left to right): Clarence Thomas, Antonin Scalia, Chief Justice John G. Roberts, Anthony Kennedy, and Ruth Bader Ginsburg

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Positions in NY State Government

Governor: Andrew Cuomo

Your state senator: Was Tom Libous, currently vacant (52nd District)

Your state assemblyman: Donna Lupardo (123rd Assembly District)

Local government:

County Executive: Debbie Preston (Broome County)

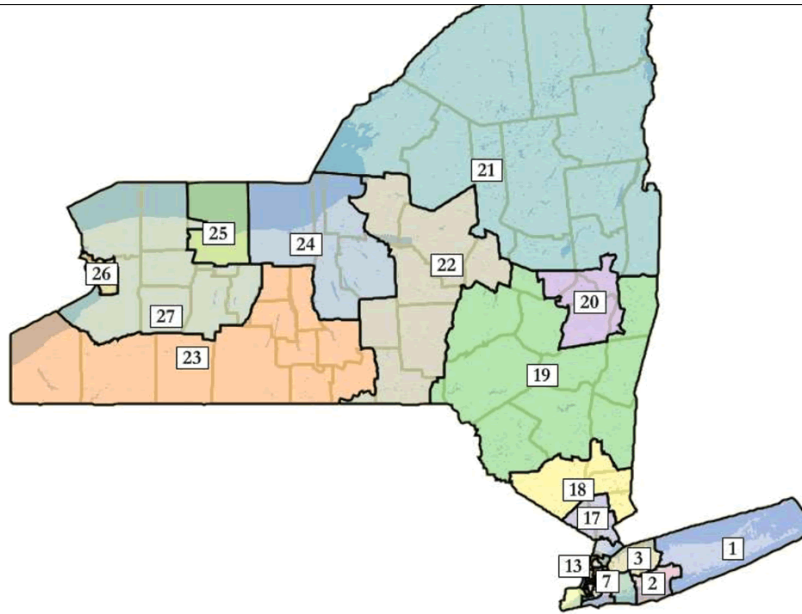
Town of Vestal Supervisor: John Schaffer

Vestal Town Councilmen: Shoba Agneshwar, Patty Fitzgerald,

Total = 4 Francis Majewski, Sue Messina

Constitutional Principles

Homework: *Read page 7 in packet*



The Unwritten Constitution

The Cabinet:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs



Electoral College Promise

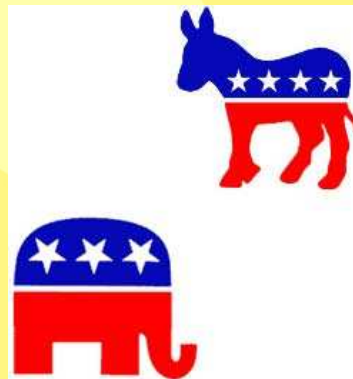
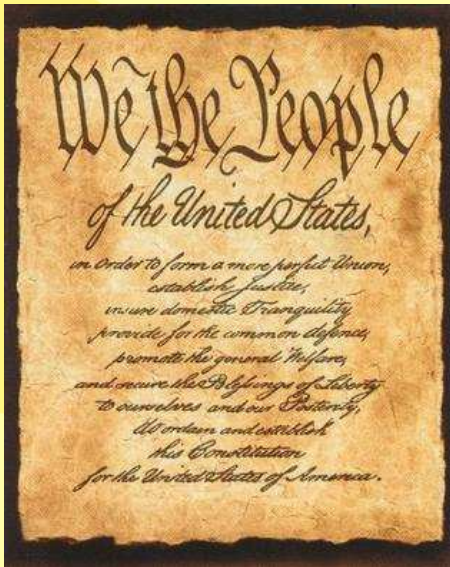
It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations. It was also peculiarly desirable to afford as little opportunity as possible to tumult and disorder. This evil was not least to be dreaded in the election of a magistrate, who was to have so important an agency in the administration of the government as the President of the United States. But the precautions which have been so happily concerted in the system under consideration, promise an effectual security against this mischief.



Alexander Hamilton - *The Federalist Papers*

Political Parties:

what role do they play?



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Congressional Committees

House of Representatives	Senate	Joint
<ul style="list-style-type: none"> • Agriculture • Appropriations • Armed Services • Budget • Education and the Workforce • Energy and Commerce • Ethics • Financial Services • Foreign Affairs • Homeland Security • House Administration • Intelligence (Permanent Select) • Judiciary • Natural Resources • Oversight and Government Reform • Rules • Science, Space, and Technology • Small Business • Transportation and Infrastructure • Veterans' Affairs • Ways and Means • (Whole) 	<ul style="list-style-type: none"> • Aging (Special) • Agriculture, Nutrition and Forestry • Appropriations • Armed Services • Banking, Housing, and Urban Affairs • Budget • Commerce, Science and Transportation • Energy and Natural Resources • Ethics (Select) • Environment and Public Works • Finance • Foreign Relations • Health, Education, Labor, and Pensions • Homeland Security and Governmental Affairs • Indian Affairs • Intelligence (Select) • Judiciary • Rules and Administration • Small Business and Entrepreneurship • Veterans' Affairs <p>(click here for complete list with subcommittees)</p>	<ul style="list-style-type: none"> • (Conference) • Economic • Library • Printing • Taxation



Term Limits for President

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more that two years of a term to which some other person was elected President shall be elected to the office of President more than once.

XXII Amendment - Ratified in 1951

George Washington - 2 terms

Franklin Delano Roosevelt - 4 terms (died in office)

Good idea or not?

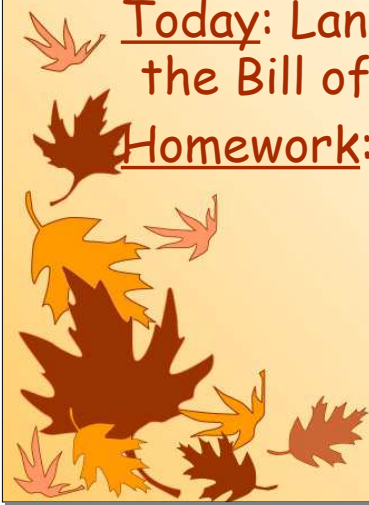


Supreme Court Cases

Entrance Task: Pick up a green Supreme Court case booklet before you sit down
(Please do not write on them)

Today: Landmark Supreme Court cases and the Bill of Rights

Homework: Study for quest on Wednesday



Classwork packet - pages 12-13



* Using the information in the Supreme Court Case packet, complete the matrix on landmark cases relating to the Bill of Rights.






Homework:None


The Bill of Rights and Supreme Court Decisions				
Case	Amendment & Right	Background	Decision	Impact
W. VA State Board of Ed v. Barnette (1943)	1 st Civil Liberties ★	* W Va. school required students to salute & pledge flag * Barnette (Jehovah's Witness) challenges Board of Ed.	* 6-3 students may not be required to salute & pledge flag	* Students' civil liberties protected
Mapp v. Ohio (1961)	★ 4 th No unreason - able search & seizure	Police entered Mapp's home looking for a bomber and illegal gambling materials and found illegal porn	Rule in Mapp's favor and said her 4th amendment rights were violated	illegally gained evidence may not be used against a defendant

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Case	Amendment & Right	Background	Decision	Impact
Engle v. Vitale (1962)  prayer	1 st Ban on establish-ment of religion 	NYS Board of Regents required students to recite a prepared prayer. Parents challend it as contrary to their beliefs. State court upheld the prayer	Court ruled that the prayer violated the Establishment Clause of the 1st Amendment	Court later banned Bible reading in public school assemblies or classrooms
Hazelwood v. Kuhlmeier (1988)	1 st Freedom of Press	Student newspaper was censored by the principal, violating their 1st Amendment rights	Student rights not the same in school as outside Newspaper is the school's and student writers are not protected under the 1st Amendment	Students do not have full access to 1st Amendment rights when on school property. Officials may restrict speech based on "legitimate pedagogical concerns"



Case	Amendment & Right	Background	Decision	Impact
N.J. v. T.L.O. (1985)	4 th No unreason-able search & seizure 	* Assistant Vice Principal searches student's purse & discovers cigarettes, rolling papers, marijuana, pipe, plastic bags, money, index card of students owing money, & two letters implicating marijuana dealing	* School officials only need "reasonable suspicion" rather than "probable cause" to search students	* 1995 decision extended search rights to allow drug testing of student athletes
Miranda v. Arizona (1966)	5 th Right to counsel & protection against self-incrimination 	* Defendants not given full & effective warning of rights while in police custody	* Prosecutors could not use statements from custodial interrogation unless defendants warned of rights	* Defendants Mirandized by police

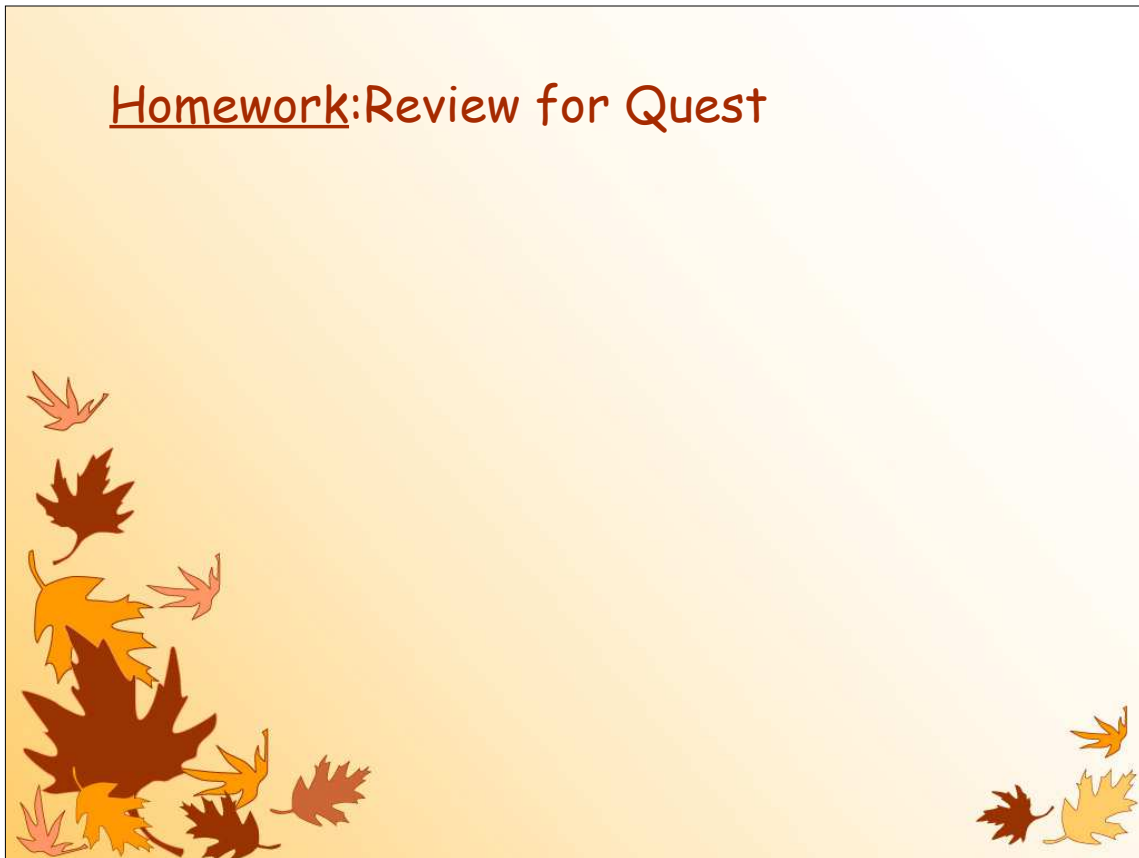


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Case	Amendment & Right	Background	Decision	Impact
Gideon v. Wainwright (1963)	6 th Rights of the accused 	* Gideon defended himself after being denied a request for free counsel	* Right to counsel is fundamental to a free trial	* Protected the rights of accused criminals
Escobedo v. Illinois (1964)	6 th Trial by Jury 	* Escobedo arrested for murder & denied access to his lawyer	* Exclusionary rule extended to include illegal confessions	* Rights of accused protected
Furman v. Georgia (1972)	8 th Protection against cruel & unusual punishment 	* Furman accidentally kills resident of home he was breaking into & was sentenced to death	* In this case, death penalty was cruel & unusual * States must have clear & consistent rules for apply death penalty uniformly	* State & national legislature must rethink their statutes for capital offenses



Homework:Review for Quest



“Almighty God, we acknowledge our
dependence upon Thee, and we beg Thy
blessings upon us, our parents, our teachers
and our Country.”



Amendment I ***Freedom of Religion, Speech, Press, Assembly, and Petition***

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof (refers to *freedom of worship*); or abridging (reducing) the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress (correction) of grievances.

Amendment II ***Right to Bear Arms***

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed (weakened).



